

DIANE B. KATZ

IBLA 79-300, 80-188

Decided May 7, 1980

Consolidated appeals from decisions of the Utah State Office, Bureau of Land Management, requiring the execution of standard and special stipulations prior to the issuance of oil and gas leases U-37657 and U-39385.

Affirmed:

1. Environmental Quality: Generally -- Oil and Gas Leases: Generally -- Oil and Gas Leases: Stipulations -- Secretary of the Interior

The Secretary of the Interior may require an oil and gas lease applicant to accept stipulations reasonably designed to protect environmental and other land use values as a condition precedent to the issuance of a lease. Where the recommendations to impose stipulations on the lease are based on environmental analysis reports for the Uinta National Forest, special protective stipulations are not unreasonable, per se.

2. Environmental Quality: Generally -- Oil and Gas Leases: Stipulations

Oil and gas lessees must bear the expenses occasioned by compliance with stipulations for the protection of other land use values.

APPEARANCES: Diane B. Katz, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Diane Katz appeals from separate decisions of the Utah State Office, Bureau of Land Management (BLM), dated February 26 and November 19, 1979, requiring that she execute a "Roadless Area" stipulation, a "No Surface Occupancy" stipulation as to part of the land in each lease, as well as standard stipulations (3109-3 and 3109-5), prior to the issuance of the leases, or suffer rejection of her noncompetitive oil and gas lease offers U-37657 and U-39385.

The applicable section of the "Roadless Area" stipulation provides that:

It is mutually understood that some of the lands embraced in this lease have been inventoried as roadless areas and must be evaluated for their wilderness potential. Depending on the results of the evaluation, the area in question may be determined as suitable for further wilderness study, or not suitable for wilderness. Those area determined as suitable for wilderness may ultimately be classified as wilderness.

* * * * *

(e) If the area, or part of it, is determined as suitable for wilderness study, this clause shall remain in full force and effect until the area is either classified for wilderness or is formally rejected for such classification. If the area is classified as wilderness, this lease shall become subject to the provision of the Act of September 3, 1964 (78 Stat. 893), and the Forest Service regulations and policies pertaining thereto.

BLM advised appellant that if she failed to sign and file this stipulation, her offers would be rejected in their entirety and the case file closed on the records of the BLM office. Katz appealed from these decisions.

[1] The Secretary of the Interior has the discretionary authority to issue oil and gas leases under such rules and regulations as he deems necessary, 30 U.S.C. § 189 (1970). The Secretary also has the discretion to refuse to issue any lease at all on a given tract. Udall v. Tallman, 380 U.S. 1, 4 (1965), rehearing denied, 380 U.S. 989 (1965). If the Secretary decides to issue a lease, he may require the execution of special stipulations to protect environmental and other land use values. Vern K. Jones, 26 IBLA 165 (1976); 43 CFR 3109.2-1. However, proposed special stipulations must be supported by valid reasons which will be weighed by this Department with due regard for the public interest. A. A. McGregor, 18 IBLA 74 (1974); George A. Breene, 13 IBLA 53 (1974).

Appellant asserts that:

Classification as "wilderness" for the area under lease would prevent both access and development of the area for oil and gas development. Thus, rendering the lease in question virtually worthless. Therefore, I respectfully request that this lease application be set aside until an evaluation of the area is made as to its wilderness potential. At that time BLM would be better advised as to its availability for leasing. It appears

premature at this time to require me to agree to a lease that I may not have access to.

We find that the need to preserve the character of the lands embraced in this lease for evaluation of their wilderness potential supports the BLM determination to require the "Roadless Area" stipulations for this lease offer. In U-39385, the "No Surface Occupancy" stipulation only affects 20 acres of 1,920 acres of land, and protects the proposed Bone Hollow recreation site. The "Roadless Area" stipulation does not preclude use of the surface nor prohibit access, but merely limits access and use to the extent necessary for the protection of other resource values. In U-37657, the no-surface-occupancy stipulation for part of the land protects the Vat Diversion Dam and the Strawberry Acquisition of the Central Utah Project. Although the proposed stipulations clearly would make appellant's use and development of the lease areas more difficult, there is adequate justification for such action. Furthermore, appellant has failed to present any substantive evidence or argument with this appeal to persuade us that BLM's conclusions are in error. She simply states that it appears premature at this time to require her to agree to a lease that she may not have access to. This argument is not germane to our determination of this case.

Moreover, it would be contrary to the public interest to suspend appellant's offers, as she requests, and preserve her priority indefinitely until she decides finally whether she wishes to consummate the leases on the terms imposed by the Government. If these terms are unacceptable to her at present, she may simply decline them.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior 43 CFR 4.1, the decisions appealed from are affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Joseph W. Goss
Administrative Judge

